

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NORTH DAKOTA  
NORTHWESTERN DIVISION**

United States of America,	)	
	)	
Plaintiff,	)	
	)	<b>ORDER FOR JUDGMENT</b>
vs.	)	
	)	
10,150 Square Feet of Land in City of	)	Case No. 4:06-cv-073
Portal, Burke County, North Dakota,	)	
David Gunderson, et al., and Unknown	)	
Owners,	)	
	)	
Defendants.	)	

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Upon consideration of the United States' Motion for Final Judgment filed by the Plaintiff, United States of America, and after examining the record of all the proceedings in this action, the Court makes the following findings:

1.

This Court has jurisdiction over the parties and the subject matter of this action.

2.

The use for which the subject property is taken and condemned is one authorized by law. The taking of fee simple title to the property described in the Complaint and Declaration of Taking was necessary and suited to the use. Title has been properly acquired.

3.

On the date of the filing of the Declaration of Taking, the United States deposited \$6,380.00 into the registry of the Court for the benefit of the persons entitled to just

compensation for the taking of fee simple title to the property described in the Complaint and Declaration of Taking.

4.

All record title owners of the property described in the Complaint and Declaration of Taking have been served with process.

5.

On September 25, 2007, this Court entered Findings of Fact, Conclusions of Law, and Order finding that defendants Charles W. Clingman and Kandice E. Clingman, n/k/a Kandice E. Charlton hold no interest to the property described in the Notice of Condemnation and Declaration of Taking filed in this case on September 18, 2006, and are barred from asserting any right, title, claim and/or interest in and to the just compensation award entered in this case.

6.

At the time of, and immediately prior to, the filing of the Complaint in Condemnation and the Declaration of Taking, David Gunderson was the owner in fee simple of the property described in the Complaint in Condemnation, the Notice of Condemnation, and the Declaration of Taking. Burke County Director of Tax Equalization asserted that \$142.65 was due and owing for property taxes assessed before September 18, 2006, the date of Taking. Liberty State Bank asserted that it held a mortgage interest to the property via a mortgage granted to it by defendant David Gunderson on August 2, 2005. The Burke

County Director of Tax Equalization, David Gunderson and Liberty State Bank are the only persons or entities entitled to compensation for the taking of the property described in Complaint in Condemnation and Declaration of Taking.

7.

David Gunderson and Liberty State Bank have not withdrawn the \$6,380.00 deposited with the Court, or any portion of it, and are entitled to have compensation disbursed to them.

8.

The Burke County Director of Tax Equalization was entitled to \$142.65 of the sum deposited with the Registry of the Clerk of Court for payment of the pre-taking taxes assessed against the property and due and owing as of April 23, 2007, and this sum was disbursed to her.

**IT IS ORDERED, ADJUDGED, AND DECREED:**

1.

The title to the estate condemned in this proceeding vested in the United States of America on September 18, 2006, the date of the filing of the Declaration of Taking and deposit of the estimated just compensation. The estate condemned is taken for the public use of the United States as authorized by law. Title to the fee simple estate as specifically set forth in the Complaint and Declaration of Taking, is vested in the United States of America, free and clear of any liens or claims whatsoever.

2.

The sum of \$6,380.00 (less liens), inclusive of interest, is full and just compensation and in full satisfaction of any and all claims of whatsoever nature that David Gunderson and Liberty State Bank may have against the United States of America by reason of the institution and prosecution of this action and the taking of the property described in the Complaint and Declaration of Taking.

3.

The sum of \$142.65, inclusive of interest, was disbursed to the Burke County Director of Tax Equalization in full satisfaction of any and all pre-taking property tax liens that the Burke County Director of Tax Equalization may have against the property or claims against the United States of America by reason of the institution and prosecution of this action and the taking of the property described in the Complaint and Declaration of Taking.

4.

Defendants Charles W. Clingman and Kandice E. Clingman, n/k/a Kandice E. Charlton, were deemed to have no further right, title or interest in the property described in the Notice of Condemnation and Declaration of Taking filed on September 18, 2006, by Order of this Court on September 25, 2007.

5.

Any and all claims of any nature against the United States by reason of the institution and prosecution of this action and taking of the property described in the Complaint and Declaration of Taking, improvements on the property and all appurtenances to it are fully satisfied.

6.

The parties shall be responsible for their own legal fees, costs and expenses (including attorneys' fees, consultants' fees, appraisers' fees and any other expenses).

**ORDER FOR JUDGMENT**

Let judgment be entered accordingly.

Dated this 19th day of October, 2007.

/s/ Daniel L. Hovland  
Daniel L. Hovland, Chief Judge  
United States District Court